

(1) Purpose - To establish a regulation to define the appropriate Allocation Factors and procedures for use in determining the Alabama Allocation Factor for foreign franchise tax.

(a) A taxpayer employing capital both within and without Alabama must complete Schedules C and D of the annual foreign franchise tax return.

(b) A taxpayer's primary use of capital shall determine the appropriate Allocation Factors to be used in Schedule C of the foreign franchise tax return.

(c) Schedule C. - Allocation Factors

1. Cost of manufacturing, processing or fabricating (for a taxpayer engaged in manufacturing)

2. Sales by destination (for a taxpayer engaged in selling activities)

3. Gross income (where a taxpayer has relatively little or no manufacturing or selling)

4. Total dollar amount of active contracts (for a taxpayer engaged in construction)

5. Total mileage (for a taxpayer engaged in transportation)

6. Total salaries, wages, and/or salesmen, brokers or agents commissions

7. Tangible property (original cost) which shall include all depreciable property, land, depletable property, oil and gas leases, interest in partnerships, total dollar amount of active construction contracts, and inventories

(d) Schedule D. - Allocation Categories

1. Manufacturing -- A taxpayer employing capital primarily in Manufacturing, Processing, or Fabricating shall use the average of the Alabama percentages determined by averaging Allocation Factors 1 and 2, Allocation Factor 6, and Allocation Factor 7, Schedule C. To determine the Alabama Allocation Factor in Schedule D, divide the sum of the Allocation Factors by three (3). If any Allocation Factor has an everywhere amount (denominator) which is zero, the Allocation Factor shall be eliminated and the number of factors shall be reduced accordingly. A taxpayer shall be deemed to be employing capital primarily in Manufacturing, Processing or Fabricating if 50% or more of the items sold by the taxpayer are Manufactured, Processed or Fabricated by the taxpayer.

2. Selling -- A taxpayer employing capital primarily in Selling shall use the average of the Alabama percentages determined by averaging Allocation Factor 2, Allocation Factor 6, and Allocation Factor 7, Schedule C. To determine the Alabama Allocation Factor in Schedule D, divide the sum of the Allocation

Factors by three (3). If any Allocation Factor has an everywhere amount (denominator) which is zero, the Allocation Factor shall be eliminated and the number of factors shall be reduced accordingly.

3. Contracting -- A taxpayer employing capital primarily in Contracting shall use the average of the Alabama percentages determined by averaging Allocation Factor 4, Allocation Factor 6, and Allocation Factor 7, Schedule C. To determine the Alabama Allocation Factor in Schedule D, divide the sum of the Allocation Factors by three (3). If any Allocation Factor has an everywhere amount (denominator) which is zero, the Allocation Factor shall be eliminated and the number of factors shall be reduced accordingly.

4. Transportation -- A taxpayer employing capital primarily in Transportation shall use the average of the Alabama percentages determined by averaging Allocation Factor 3, Allocation Factor 5, and Allocation Factor 6, Schedule C. To determine the Alabama Allocation Factor in Schedule D, divide the sum of the Allocation Factors by three (3). If any Allocation Factor has an everywhere amount (denominator) which is zero, the Allocation Factor shall be eliminated and the number of factors in the denominator shall be reduced accordingly.

5. Services -- A taxpayer employing capital primarily in Services shall use the average of the Alabama percentages determined by averaging Allocation Factor 3, Allocation Factor 6, and Allocation Factor 7, Schedule C. To determine the Alabama Allocation Factor in Schedule D, divide the sum of the Allocation Factors by three (3). If any Allocation Factor has an everywhere amount (denominator) which is zero, the Allocation Factor shall be eliminated and the number of factors shall be reduced accordingly.

6. Rentals and/or Leasing -- A taxpayer employing capital primarily in Rentals and/or Leasing shall use the average of the Alabama percentages determined by averaging Allocation Factor 3 and Allocation Factor 7, Schedule C. To determine the Alabama Allocation Factor in Schedule D, divide the sum of the Allocation Factors by two (2). If any Allocation Factor has an everywhere amount (denominator) which is zero, the Allocation Factor shall be eliminated and the number of factors shall be reduced accordingly.

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